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THE LAND LAWS TO BE ENFORCED

Attorney-General Gives Opinion That the Law Must Be Complied With—Summary Action To Be Taken Against Delinquents—No Redress for Ignorance or Mistake As to the Law.

Sub Land Agent Williams at Hilo has been instructed to proceed against every homesteader who has failed to live up to the requirements of the land laws. All holders of Right of Purchase leases who have not complied with the terms of their leases by residing thereon "continuously," or failing to fulfill other requirements are to be ousted and the leases cancelled.

Commissioner of Public Lands Pratt has taken this action under a formal opinion No. 153 of Attorney General Andrews, which has just been made public. In it the Attorney General quotes sections of the law with reference to residence and fails to find any relief for those quasi homesteaders who have failed to reside continuously on their land upon an understanding of the land law or by special permission of the local land official.

Ranger J. W. Ahina has been spending the past two weeks in Olaa looking into violations of the land laws. Special attention is directed to the new Olaa subdivision, which was opened up Sept. 20, 1900 and not one in twenty homesteaders are able to prove up on their property. These were sold at public auction under special agreements of various kinds, requiring a six years residence. Fully three quarters of these leases agreements will be cancelled, and every other right of purchase lease within the district not being complied with will suffer like treatment. The opinion is as follows:

[OPINION No. 153.]

TERRITORY OF HAWAII,
OFFICE OF
THE ATTORNEY-GENERAL,
HONOLULU, August 20, 1904.

HON. JAMES W. PRATT,
Commissioner of Public Lands,
Territory of Hawaii.

SIR:—In answer to your request for an opinion as to whether the Commissioner of Public Lands has the right to extend any relief to a person who, through mistake or otherwise, has failed to fulfill the residence condition of a right of purchase lease, I would reply as follows:

Section 61 of the Land Act of 1895 provides for the conditions which must be fulfilled by the applicant before he is entitled to his patent. Subdivision 2 of said section reads as follows: "The lessee shall from the end of the first year of the said term to the end of the fifth year thereof continuously maintain his home on such premises."

Section 62 of said Land Act recites: "The violation, if any, of the foregoing conditions shall be found sufficient cause for the Commissioner to take possession of the demised premises without notice, demand or previous entry, and with or without legal process and thereby determine the estate created by such lease." This latter section gives to the Commissioner the right, without doubt, upon failure of the applicant to perform any of the conditions, to take possession of said property and determine said lease.

The question which remains is in the case of mistake, inadvertence or misinformation on the part of the tenant, can the Commissioner of Public Lands extend the time within which he can fulfill the conditions of said lease, and give him further time within which to comply with the law in this particular?

Section 64 of said Act has been called to my attention. The section is as follows: "At any time after the third year of the said term, the lessee shall be entitled to a land patent from the government conveying him in fee simple the land described in his lease upon his paying to the government the appraised value of the premises as set forth in such lease, if he has reduced to cultivation twenty-five per cent of said premises and has resided thereon

not less than two years and has substantially performed all other conditions of his lease."

A careful examination of the situation reveals that this section does not afford the relief claimed, while it allows the tenant or applicant to receive his Royal Patent at an early date provided he has performed certain conditions and thereby puts a premium upon the settler being energetic and active and cultivating the property, yet a careful inspection of the conditions of occupancy shows that if the applicant has failed to comply with them, there is no redress.

The subdivision of section 61 before quoted, that "the lessee shall from the end of the first year" is mandatory. If he does not do so he forfeits his lease, and there is no provision of law that I have been able to find that allows a public officer to take upon himself the burden of changing the conditions of a lease where the same are laid down in emphatic and absolute language.

The idea of the legislature in creating these leases was clearly to encourage settlement and residence upon lands of the government. It was not for the purpose of allowing persons to obtain farming lands at easy rates, but for the purpose of creating small farm homesteads where the parties would engage in farming and agricultural pursuits and increase in number the thrifty citizens of the Territory.

The conditions in the Right of Purchase leases are clearly printed in every lease. Persons desiring public lands and not desiring to live thereon, can obtain the same upon other conditions by bidding a public auction in an open market. If a settler prefers to take one of these leases, he must expect to live up to the terms of same as laid down in his lease, and any man who can read and write, can understand the conditions therein set forth.

While the claim that settlers were misled by sub-land agents as to the conditions it was necessary to perform, is a plausible one, the settler, as a rule, is of sufficient intelligence to know that the consent of an officer that he can break the law, is not going to protect him from the consequences. I have no doubt in some cases through a belief that the agent was not misleading them settlers neglected to comply with the conditions as set forth in their leases, yet I see no way in which the Commissioner can interfere in the matter.

Yours respectfully,
(Signed) LORRIN ANDREWS,
Attorney General.

NEW JERSEY'S PEST.

An Interesting Exhibit Showing Efforts to Exterminate It.

St. Louis, Sept. 23.—The mosquito never had such honor since the world began as he has now at the world's fair. In the great Palace of Forestry, Fish and Game, amid the profoundest of exhibits and most stately neighbors, the Jersey mosquito finds a distinguished seat of honor, where he and his family are gazed upon by the multitudes.

The great State of N. J. had long been N. G. in some parts as a place of residence. The Jersey mosquito had become an intolerable curse, known far and wide on account of size, industry and strenuousness generally. Therefore Jersey makes this exhaustive mosquito exhibit as an advertisement of her enterprise in combating a pest that she could not conceal.

Mr. Mosquito is here in bottles some hundreds in number. He is impaled on pins numbered and otherwise labeled till he looks like the trophy display in a village of head hunters. On other shelves

and in other cases and bottles we are shown all the kinds of fish, bugs and beetles they have in Jersey to eat mosquito larvae. A dismembered mosquito is magnified and spread over a space as large as the side of a newspaper, every part numbered and named till he looks as magnificent and important as the diagram of a man, his mere victim.

Still another case contains a salt marsh in miniature showing how pools of water gather in low places when it rains and furnish breeding places for myriads of mosquitoes. Photographs show experiments with castor beans as a preventative of mosquitoes near dwellings, but which proved to be but homes for more mosquitoes.

The scientific results are that mosquitoes do not breed in ponds where there are fish or beetles or other bugs to eat the larvae; that the country must be so drained that there can be no pools or other stagnant water to furnish breeding places. Even the pitcher plant of the lowlands or tomato cans in the back alley, or anything that will hold water for a few days, rain barrels and cisterns, are prolific of the pest. New Jersey has therefore done the world a service, and her display is full of interest and worthy of examination. By the methods proposed Jersey hopes to overcome the mosquito pest in ten years.

SHAM FIGHT AND BASEBALL.

A Large Crowd Witnessed Splendid Exhibitions.

Fully five hundred people filled the grand stand at Hoolulu Park Sunday afternoon to witness the sham battle by members of Company D, National Guard. The movements were remarkably well executed and the soldier boys were at all times well under command by Captain Fetter and Lieutenant Ludloff, who commanded the opposing forces. Promptly at 2 o'clock the boom of a cannon gave notice of attack on the main body of the company, which were bivouaced on the open field in front of the spacious amphitheatre.

The bugle sounded the alarm and a reconnoitering party under Sergeant Easton made a sortie in the direction of the ambuscaders. Not knowing the strength of the force, Captain Fetter lead a Kuro-patkin retreat without the loss of a single man.

The Japanese under Commander Ludloff then advanced with their field pieces to the abandoned position of the fleeing army. Here they converted a board fence into breastworks and held the fortifications against the repeated attacks of larger force. Capt. Fetter then divided his command into three detachments, and in the face of an inflaming fire scaled the ramparts of Laioyang and captured the enemy's ammunition and guns which had been dismantled before the arrival of the Russians. Altogether it was a very successful exhibition, and the shelter tent drill was exceptionally good, the entire company going into temporary camp in two minutes.

This was followed by an exciting ball game between the "O. K." Union Specials and the "Black Diamonds" of the Railroad. The crowd was enthusiastic and evenly divided in its partiality to one side or the other. Easton and Tevis of Beamer's team assisted the railroad boys and Kekuewa helped the Unions to defeat. Medeiros in the pitchers box for the Unions played a good game, and Jack Williams and Spaulding on the firing line for the railroad team did some good work.

The Unions seemed to lose their nerve, and the only run made was one in the fifth, on an error by the second baseman. The score is as follows:

1 2 3 4 5 6 7 8 9

Union Specials...0 0 0 1 0 0 0 0—1

Hilo Railroad...0 0 0 0 3 0 4 0—7

The score in the second game was as follows:

1 2 3 4 5 6 7

Mooheau...3 0 2 3 5 1 0—14

Ponohawai...1 0 2 2 0 2 3—10

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